

Application No.: 10/565,718
Filing Date: August 28, 2006

REMARKS

Claims 2, 11-16, and 18 have been cancelled. Claims 1 and 19 have been amended. Claims 1, 3-10, 17, and 19-22 are now pending in this application. Support for the amendments is found in the existing claims and the specification as discussed below. Accordingly, the amendments do not constitute the addition of new matter. Applicant respectfully requests the entry of the amendments and reconsideration of the application in view of the amendments and the following remarks.

Rejection under 35 U.S.C. § 112, first paragraph - enablement

Claims 18-22 are rejected under 35 U.S.C. § 112, first paragraph as containing subject matter which is not described in the specification in such a way so as to enable one skilled in the art to which it pertains to make and/or use the invention.

This ground of rejection is addressed by amendment. Claim 18 has been cancelled. Claim 19 has been amended to depend from claim 17. Claims 19-22 now depend from claim 17 which is not subject to this ground of rejection.

In view of Applicants' amendments, reconsideration and withdrawal of the above ground of rejection is respectfully requested.

Rejection under 35 U.S.C. § 102(a) (Bao)

Claims 1-6, 9 and 17-21 are rejected under 35 U.S.C. § 102(a) as being anticipated by CN031408214 (Bao).

The publication date of the Bao reference is May 26, 2004. Applicants' priority documents, Chinese Patent Application Nos. 03146157.3 and 03156224.8, were filed July 25, 2003 and September 3, 2003, respectively. In order to perfect their priority claim, Applicants submit herewith verified English translations of both priority documents, Chinese Patent Application Nos. 03146157.3 and 03156224.8 (see Attachment).

In view of Applicants' priority date which precedes publication of the Bao reference, and the submitted verified translations, withdrawal of the rejection is respectfully requested.

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Rejection under 35 U.S.C. § 102(b) (Krieg)

Claims 1, 3-5, 7-10, 17-20, and 22 are rejected under 35 U.S.C. § 102 (b) as being anticipated by US Patent No. 06218371 (Krieg) as evidenced by Sheehan, et al. (2003).

This ground of rejection is addressed by amendment. Claim 2 has been incorporated into claim 1. Applicants respectfully submit that neither Krieg nor Sheehan, et al. teach the sequences of SEQ ID NO: 1, SEQ ID NO: 2, SEQ ID NO: 3, SEQ ID NO: 4 or SEQ ID NO: 5.

In view of Applicants' amendment, reconsideration and withdrawal of the above ground of rejection is respectfully requested.

Obviousness-type double patenting

Claims 1 and 8 are provisionally rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 5 of copending application no. 11/720070.

This ground of rejection is addressed by incorporation of the limitation of claim 2 into claim 1.

In view of Applicants' amendment, reconsideration and withdrawal of the above ground of rejection is respectfully requested.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

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CONCLUSION

In view of Applicants' amendments to the claims and the foregoing Remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any remaining concerns which might prevent the prompt allowance of the application, the Examiner is respectfully invited to contact the undersigned at the telephone number appearing below.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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Dated: July 17, 2008

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ATTACHMENT